

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10017 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
(Points Nos.1 to 5 - No)

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Shardaben Khemabhai Patel

vs.

District Primary Education Officer and others.

Appearance:

MR KB PUJARA for petitioner

SERVED BY DS for Respondent No.1

M/s.PATEL ADVOCATES FOR Respondent No.3

CORAM:MISS JUSTICE R.M.DOSHIT

Date of Decision: 9-5-1997.

ORAL JUDGMENT.

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Petitioner who is a Primary Teacher has challenged the order dated 6th November, 1996 made by respondent No.1 transferring the petitioner from Primary School, Chhadarda to Primary School, Krishnapura.

It is the case of the petitioner that the order of transfer has been made in utter disregard of the the executive instructions (which are statutory in nature) issued under the Circular dated 1st December, 1994. If petitioner's transfer from Primary School, Chhadarda were required to be made she should have been transferred to any other primary school under the same Pay Centre i.e. Fatehpur group of Primary Schools. It is further contended that considering the petitioner's personal inconvenience and social obligations the petitioner be retained in Primary School, Vaghrota.

Under the order dated 11th December, 1996 made by this court, the petition was admitted to final hearing. By way of ad-interim order, the court made the order as under:

"In the meanwhile the operation of the impugned order dated 6-11-96 shall remain stayed and the petitioner shall be allowed to continue to function at Chhadarda under Pay Centre, Fatehpur where she has been working prior to the passing of the order dated 6-11-96. Direct service is permitted."

In view of the above ad-interim order, the petitioner has continued in the Primary School, Chhadarda till the date. In my view, since the petitioner has continued to serve at Primary School, Chhadarda her posting shall not be disturbed particularly in view of fast approaching end of the academic year.

Petition is, therefore, allowed. Rule is made absolute in terms of the above ad-interim order. The parties shall bear their own costs.

It is clarified that the respondents shall be at liberty to consider the petitioner for transfer to any other primary school for the next academic year in accordance with law. While considering the petitioner's case for transfer her request made under the representation dated 1st November, 1996 may also be considered.
